

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE EX PARTE APPLICATION OF SBK ART LLC,  
Petitioner,  
for an Order Pursuant to 28 U.S.C. § 1782  
To Take Discovery for Use in Foreign  
Proceedings.

CIVIL ACTION NO. 24-MC-0147 (PAE) (RFT)

**ORDER**

**ROBYN F. TARNOFSKY, United States Magistrate Judge:**

On March 26, 2024, SBK ART LLC (“Petitioner”) submitted an ex parte Application and Petition (the “Application”) pursuant to 28 U.S.C. § 1782 for an order authorizing Petitioner to serve subpoenas on Akin Gump Strauss Hauer & Feld LLP and Akin Gump LLP (together, “Respondents”) to obtain discovery. (ECF 1) On July 1, 2024, I issued an Order requesting additional briefing on certain topics from Petitioner no later than July 11, 2024, and from Respondents no later than July 17, 2024. (ECF 35).

From my further review of the parties’ initial submissions, I determined that I need additional information on the status of the materials Petitioner seeks that Respondents shared with the European Union Council. Respondents appear to take the position that “much of the discovery Petitioner seeks is either privileged or already possessed by” the European Union Council, which Respondents characterize as Petitioner’s true adversary in the EU Action (ECF 22, Respondents’ Opp. at 12-13). Based on this premise, Respondents conclude that Section 1782 is an inappropriate mechanism for obtaining discovery of materials that Respondents shared with the European Union Council, because Section 1782 does not permit discovery from the adversaries in the underlying foreign proceeding or of privileged materials.

Respondents are directed to include in their submission of **July 17, 2024** the following additional information: 1) support for the contention that the European Union Council is Petitioner's true adversary in the EU Action; 2) support for the proposition that Petitioner could obtain documents provided by Respondents to the European Union Council either from the European Union Council or from the Fortenova Group, either through discovery in the EU Action or otherwise; 3) support for the proposition that documents provided to the European Union Council, a government body and not an Akin client, would nevertheless be considered privileged under U.S. law or under any relevant foreign law. To the extent that Petitioner wishes to respond to any of the information provided by Respondents on these three points, Petitioner may do so in a submission to be filed by **July 19, 2024**.

DATED: July 8, 2024  
New York, New York

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Robyn F. Tarnofsky', written over a horizontal line.

**ROBYN F. TARNOFSKY**

United States Magistrate Judge